

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5798 OF 2005**

Basanna Guranna Kasture & Ors. ...Applicants

VS.

The State of Maharashtra ...Respondent

Mr.M.S.Mohite for the Applicants

Mr.R.Y.Mirza,A.P.P. for State

CORAM: A.S.OKA, J.

DATE : SEPTEMBER 20, 2005

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. The offence registered against the Applicant and co-accused is under sections 302,342 read with Section 34 of the Indian Penal Code. The learned Advocate for the Applicants submitted that there is no evidence against the Applicants save and except so called dying declaration of the deceased. He submitted that the dying declaration of the deceased does not find place in the statement of the two witnesses who have allegedly accompanied the deceased from the spot of the incident to the police station. He submitted that the statements also indicate that the deceased had gone to the locality where the spot of the incident is situated with the object of committing theft. He submitted that a clear case is made out for grant of bail. He also pointed out that all the members of the family have been implicated in the offence. The learned A.P.P. opposed the application by pointing out material on record.

2. I have considered the submissions. The names of the Applicants have been disclosed in the F.I.R. registered by the father of the deceased. Moreover, in the statement of the father of the deceased, he has stated that the deceased informed him that the four persons who are named in the said statement had assaulted him. Apart from the statement of the father of the deceased, there is a statement of younger brother of the deceased which also records the dying declaration of the deceased. Clause No.17 of the P.M.Notes shows number of injuries on the person of the deceased including head injuries and cause of death is reported to be the head injuries.

3. In my view, there is sufficient material on record to show complicity of the Applicants in the offence. No case is made out for enlarging the Applicants on bail. However, considering the age of the Applicant Nos.1 and 2, trial deserves to be expedited.

4. Hence, Application is rejected. If a Fast Track Court which is empowered to try the case is available, the learned Sessions Judge will assign the trial to the Fast Track Court and the trial shall be concluded as expeditiously as possible by treating the case as High Court Expedited Trial'.

JUDGE